

MICHAEL P. STONE, SBN 91142
MUNA BUSAILAH, SBN 166328
Email: m.busailah@police-defense.com
Members of **STONE BUSAILAH, LLP**
A Partnership of Professional Law Corporations
Email: d.danial@police-defense.com
1055 East Colorado Boulevard, Suite 320
Pasadena, California 91106
Telephone: (626) 683-5600
Facsimile: (626) 683-5656

Attorneys for Defendants **JOSE ZAVALA and
JULIO QUINTANILLA**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARGARITO T. LOPEZ, SONIA
TORRES, KENI LOPEZ, ROSY
LOPEZ,

Plaintiffs,

v.

CITY OF LOS ANGELES, JOSE
ZAVALA, JULIO QUINTANILLA,
AND DOES 1 THROUGH 10,
INCLUSIVE,

Defendants.

CASE NO. 2:22-cv-07534-FLA-MAAx

*[Assigned to Judge Fernando L. Aenlle-Rocha,
USDC-Hon. Mag. Maria A. Audero, USDC-
Roybal Bldg]*

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' NOTICE OF MOTION
AND MOTION IN LIMINE NO. 3 TO
EXCLUDE EVIDENCE OF
PERSONNEL RECORDS OF
PLAINTIFFS' EXPERT SCOTT
DEFOE, OBTAINED FROM THE
RIVERSIDE COUNTY SHERIFF'S
DEPARTMENT**

FPTC: May 31, 2024
TIME: 1:00 PM
DEPT: 6B, 6th Floor

PLEASE TAKE NOTICE THAT Defendants OFFICERS JOSE ZAVALA
AND JULIO QUINTANILLA (collectively "Defendants"), will and hereby do
request that this Court deny Plaintiffs' motion in limine to exclude evidence of
Scott DeFoe's personnel records. Plaintiffs regurgitate the same essential

1 arguments that they already raised – twice – in an improper attempt to prevent the
2 revelation of the subpoenaed documents. This Court should follow Magistrate
3 Judge Maria A. Audero’s well-reasoned opinions and – for the third time – deny
4 Plaintiffs’ attempt to halt Defendants’ use of the subpoenaed documents. *See* Dkt.
5 #52, 72.
6

7
8 For purposes of brevity, Defendants do not repeat here the arguments they
9 made in opposition of Plaintiffs’ first motion on this topic, which sought to quash
10 the subpoena in the first instance. Dkt. #50. To the extent this Court finds that
11 Plaintiffs’ arguments have not been properly adjudicated and reconsiders the same
12 when deciding the instant motion, Defendants incorporate their arguments in
13 opposition to that motion. *See* Dkt. #51.
14

15
16 In any event, putting aside that Magistrate Judge Maria A. Audero’s
17 decisions are the law of the case, Plaintiffs’ motion fails on its merits. The crux of
18 Plaintiffs’ argument is that Defendants purportedly violated the scheduling order in
19 this matter by issuing the subpoena before the discovery deadline had passed but
20 with a compliance period subsequent to the deadline. What Plaintiffs fail to
21 recognize, however, is that the Ninth Circuit has unambiguously held that
22 “impeachment evidence does not have to be revealed in pretrial disclosures.”
23 *Gribben v. United Parcel Serv., Inc.*, 528 F.3d 1166, 1172 (9th Cir. 2008) (citing
24 Fed.R.Civ.P. 26(a)(1)(A), 26(a)(3)). *See also In re Watkins*, 343 F. App’x 245, 246
25 (9th Cir. 2009) (same); *Jones v. Chen*, 675 F. App’x 786 (9th Cir. 2017) (same);
26
27
28

1 *Pat. Category Corp. v. Target Corp.*, No. CV 06-7311 CAS (CWX), 2008 WL
2 11336468, at *6–7 (C.D. Cal. July 17, 2008) (denying motion in limine to exclude
3 documents where documents were not disclosed pretrial but were intended to be
4 used for impeachment purposes only). And if the defense decides to use the
5 subpoenaed documents at trial, which is still undecided, the documents would be
6 used for impeachment purposes only. As such, Defendants were under no
7 obligation to anticipatorily provide Plaintiffs the documents that Plaintiffs now seek
8 to exclude. Unfair prejudice necessarily cannot result if there is no obligation or
9 requirement to provide impeachment material pretrial.

13 Out of an abundance of caution, however, Defendants provided Plaintiffs
14 with the documents produced in response to the subpoena. Defs.’ Opp’n to Mot. In
15 Limine to Exclude Information Unknown to Officers at Time of Shooting, Exhibit
16 F, attached to Declaration of Muna Busailah. Plaintiffs’ argument that they could
17 somehow be caught by surprise and, therefore, unfairly prejudiced by not receiving
18 impeachment evidence until “the eve of trial,” Dkt. #69, Page ID #:523, which need
19 not be disclosed on the eve, in any event, is thus without merit. This Court should
20 thus deny Plaintiffs’ motion.

25 Date: May 16, 2024

STONE BUSAILAH, LLP

26 By: /s/ Muna Busailah

27 MUNA BUSAILAH, Esq.

28 Attorney for Defendants JOSE ZAVALA,
JULIO QUINTANILLA